

REMARKS

In response to Applicants' March 15, 2005 after-final Amendment and Response, the Examiner issued an Advisory Action and indicated that Applicants' amendments would not be entered. The Examiner asserted that the new language added to the claims would require further consideration of prior art.

During the February 9, 2005 interview, claim language that would address the issues in the outstanding Office Action was discussed. As summarized by the Examiner in the Interview Summary, it was agreed that Applicants would submit, inter alia, claim language more specifically defining the stent connection elements. In fact, it was the Examiner who actually suggested the "elongate link" language that was inserted into the claims via Applicants' March 15, 2005 Amendment and Response. Thus, it is not understood how the Examiner could now, in the Advisory Action, cite Applicants' introduction of this very "elongate link" language as a basis for dismissing the claim amendments and issuing the Advisory Action.

In any event, the claims presented herein for examination are identical to those presented in Applicants' previous response and the remarks set forth below are essentially the same as those presented in the previous response. It is respectfully requested that, in light of the concurrent filing of an RCE and the resultant withdrawal of the final rejection,

Best Available Copy

the Examiner give full consideration to the claim amendments and Applicants' showing with regard to patentability of the claims and allow the application to proceed to allowance.

Upon entry of the amendments herein, claims 1-6, 8-10 and 12-33 are pending in the application. Claims 1, 15, 25 and 33 have been amended herein; and claims 7 and 11 have been cancelled.

Applicants and the undersigned acknowledge with gratitude the time taken by Examiners Webb and Bui to participate in an interview in Alexandria to discuss the outstanding issues; the Examiners' input is much appreciated. The amendments and remarks herein are reflective of what was discussed and agreed upon during the interview. Also, as required in the Interview Summary issued following the interview, the remarks following include the substance of the interview.

During the interview, the differences pointed out in Applicants' previous response between the stent described in U.S. 5,824,043 to Cottone and the instantly claimed stent were discussed. The Examiners acknowledged that the so-called "connecting portions" (17) of the '043 Patent are not the same as the distinct connection elements of the instant stent. However, the Examiners maintained that the present claim language was sufficiently broad to encompass both types of connection. In accordance with the discussion with the

Examiners, Applicants have amended pending claims 1, 15, 25 and 33 to clarify the nature of the connection elements of the instant stent and to clearly distinguish said elements from the "connecting portions" disclosed in the cited '043 Patent.

Again, the "elongate link" language added by amendment herein was suggested by the Examiners. Although claim 33 was not cited in the §102(b) rejection, it has been included among the amended claims in the interest of consistency.

Along similar lines, Applicants had previously argued that the section of Cottone Figure 4 said by the Examiner to constitute a second helical element could not possibly be said to constitute a continuous helix running the length of the stent. During the presentation at the interview, the Examiners acknowledged that both the '043 figures that had been cited in the Office Action and the text passages pointed out to them in the interview teach that the so-called "second continuous helix" (the Examiner's words) of the '043 stent is confined strictly to the ends of the stent and is not meant to run the length of said stent. However, the Examiners again maintained that the language of the pending claims at the time of the interview was too broad, in this case that it does not exclude second helical elements that do not run the length of the stent. In response thereto and as the Examiners agreed would be acceptable, Applicants have amended herein pending claims 1, 15, 25, and 33

to clarify the nature of the second helical element in the instant stent and thereby to distinguish said element from that of the cited prior art.

However, this apparently does not fully resolve the issue; at the interview, the Examiners also expressed reservations about Applicants' intent with regard to the second helical element of the instantly claimed stents. For example, the Examiners reiterated an assertion made in the outstanding Office Action that Figures 4 and 15 show the second helix running along only a portion of the length of the stent. In response, it was explained to the Examiners that these figures were not meant to show the stent in its entirety; rather, they were meant to show only a portion of the stent and to emphasize the nature of the second helical element formed by interconnection of undulations from the first helix. It was further pointed out to the Examiners that other figures, such as 12, 16 and 17, provide a more complete depiction of the claimed stent and certainly show the continuous and "full-length" nature of the second helical element.

Furthermore, the Examiners were provided at the interview with an exhibit which was an actual embodiment of the instantly claimed stent (and a 3-dimensional representation of the stent depicted in the application figures) and invited to inspect it. The Examiners agreed that the exhibited stent showed the

continuous nature of the second helical element along the length of the stent.

Still further, the Examiners' attention was called to, for example, the passage on page 10, lines 6 and 7 of the instant specification, wherein, with reference to the second helical elements highlighted in Figures 4 and 15, it is stated that "[T]his pattern is repeated throughout the body of the stent forming the second type of helix." Thus, Examiner's assessment of what Figures 4 and 15 depict, and the Examiner's statement in the final Office Action that it is not disclosed in the specification that the second continuous helix runs along the length of the stent, are erroneous.

Accordingly, there can be no doubt that not only does this second helical element distinguish the instant stent over the cited stent, but said helical element clearly reflects the intent of the inventors and is fully enabled by the original disclosure.

Also during the interview, the meanings of such terms as "sinusoidal" and "zigzag" were discussed. The Examiners advised that, in their experience in this field of art, the latter term is considered broader and would encompass the former. In light of this information and in the interest of reciting the preferred embodiments of the instant stent, claims 1, 15, 25 and 33 have further been amended to more particularly recite the

nature of the undulations that form the first helix.. The claims as amended reflect the stent as depicted in the application figures and the stent model presented to the Examiners at the interview.

It must be recognized, in light of the arguments above and the claim amendments herein to more particularly describe the subject matter regarded as the invention, that by no means is each and every element of the instant invention taught by the cited patent. Furthermore, the cited patent does not even suggest the instantly claimed stent.

Along these lines, there also remain three obviousness rejections leveled over the same Cottone patent as primary reference in view of various secondary references. In each case, the secondary reference(s) is/are invoked as providing a particular teaching that the Examiner acknowledges is not found in the primary Cottone reference. However, in none of these cases does the secondary material make up for the fundamental gaps in the teaching of Cottone.

For example, the alleged teaching of Frantzen of four connection elements per every 360-degree turn of the first helix cannot compensate for the failure of Cottone to teach such features as discrete connection elements and a second helical element progressing along the entire length of the stent. Similarly, the specific teachings attributed by the Examiner to

Hassan and Richter do not provide guidance as to the features of the instant stents that make them fundamentally different from the stents taught by Cottone. Thus, the various combinations of Cottone with secondary references are ineffective as bars to patentability, and the rejections should be withdrawn.

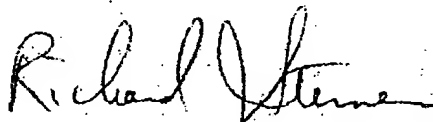
The claim amendments are fully supported by the specification and serve to clarify the distinction between the instant stents and those described in the cited prior art.

Entry of the amendments and allowance of the application with pending claims 1-6, 8-10 and 12-33 are respectfully requested. Should any other matters require attention prior to allowance, it is requested that the Examiner contact the undersigned.

The Commissioner is hereby authorized to charge any additional fees which may be due for any reason to Deposit Account No. 23-1703.

Date: May 23, 2005

Respectfully submitted,



Richard J. Sterner
Reg. No. 35,372

Customer Number 007470
(212) 819-8200

Agent's Direct Line:
(212) 819-8783

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☒ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☒ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER: _____**

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.